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**Barry Ohlson**

Vice President, Regulatory Affairs

Public Policy Office

February 25, 2019

**VIA ECFS**

Ms. Marlene H. Dortch

Secretary

Federal Communications Commission

445 12th St., S.W.

Washington, DC 20554

**Re: *Cox Communications, Inc.; Consumer and Governmental Affairs Bureau Seeks Comment on Interpretation of the Telephone Consumer Protection Act in Light of the D.C. Circuit's ACA International Decision*, CG Docket No. 18-152; *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278**

Dear Ms. Dortch:

On February 21, 2019, on behalf of Cox Communications, Inc., Jenny Prime and the undersigned of Cox Enterprises, and Josh Bercu of Wilkinson Barker Knauer, LLP, met with Mark Stone, Kurt Schroeder, and Christina Clearwater and, by phone, Daniel Margolis and Kristi Thornton, all of the Consumer and Governmental Affairs Bureau. During the meeting, we addressed the interpretations of "called party" and "automatic telephone dialing system" ("ATDS") under the Telephone Consumer Protection Act ("TCPA"). Specifically, consistent with Chairman Pai's dissent to the 2015 TCPA Declaratory Ruling and Order and previous comments filed by NCTA – The Internet & Television Association,<sup>1</sup> we urged the Commission to interpret the term "called party" to mean the "expected recipient" to account for a caller's reasonable reliance on consent.

We also urged the Commission to clarify that equipment should only be classified as an ATDS if it has the present capability to generate numbers randomly or sequentially and that capability is used, without human intervention, in making the relevant calls. Finally, we emphasized the importance of prompt Commission action to respond to the ruling of the Court of Appeals for the D.C. Circuit in *ACA International*,<sup>2</sup> including to resolve pending litigation on these issues.

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<sup>1</sup> *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Declaratory Ruling and Order, 30 FCC Rcd 7961, 8077-78 (2015) (Dissenting Statement of Commissioner Ajit Pai); Comments of NCTA – The Internet & Television Association, CG Docket No. 18-152, CG Docket No. 02-278 (filed June 13, 2018); Comments of NCTA – The Internet & Television Association, CG Docket No. 18-152, CG Docket No. 02-278 (filed Oct. 17, 2018).

<sup>2</sup> *ACA International v. FCC*, 885 F.3d 687 (D.C. Cir. 2018).

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Pursuant to section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b), this letter is being filed with your office.

Sincerely,

/s/  
Barry J. Ohlson

cc (via email):

Mark Stone  
Kurt Schroeder  
Christina Clearwater  
Daniel Margolis  
Kristi Thornton